

Calendar No. 602

110TH CONGRESS
2D SESSION**S. 2717**

To provide for enhanced Federal enforcement of, and State and local assistance in the enforcement of, the immigration laws of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2008

Mr. CHAMBLISS (for himself and Mr. ISAKSON) introduced the following bill;
which was read the first time

MARCH 6, 2008

Read the second time and placed on the calendar

A BILL

To provide for enhanced Federal enforcement of, and State and local assistance in the enforcement of, the immigration laws of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Effective Immigration
5 Enforcement Partnerships Act of 2008”.

1 **SEC. 2. STATE DEFINED.**

2 In this Act, the term “State” has the meaning given
3 the term in section 101(a)(36) of the Immigration and
4 Nationality Act (8 U.S.C. 1101(a)(36)).

5 **SEC. 3. FEDERAL AFFIRMATION OF IMMIGRATION LAW EN-**
6 **FORCEMENT BY STATES AND POLITICAL SUB-**
7 **DIVISIONS OF STATES.**

8 Notwithstanding any other provision of law and re-
9 affirming the existing inherent authority of States, law en-
10 forcement personnel of a State or a political subdivision
11 of a State have the inherent authority of a sovereign entity
12 to investigate, identify, apprehend, arrest, detain, or
13 transfer to Federal custody aliens in the United States
14 (including the transportation of such aliens across State
15 lines to detention centers), for the purpose of assisting in
16 the enforcement of the immigration laws of the United
17 States in the normal course of carrying out their law en-
18 forcement duties. This State authority has never been dis-
19 placed or preempted by Federal law.

20 **SEC. 4. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
21 **TIONAL CRIME INFORMATION CENTER DATA-**
22 **BASE.**

23 (a) PROVISION OF INFORMATION TO THE NCIC.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of the enactment of this Act, the
26 Commissioner, United States Customs and Border

1 Protection shall provide the National Crime Infor-
2 mation Center of the Department of Justice with
3 any information in the possession of the Commis-
4 sioner that is related to—

5 (A) any alien against whom a final order
6 of removal has been issued;

7 (B) any alien who is subject to a voluntary
8 departure agreement;

9 (C) any alien who has remained in the
10 United States beyond the alien's authorized pe-
11 riod of stay; and

12 (D) any alien whose visa has been revoked.

13 (2) REQUIREMENT TO PROVIDE AND USE IN-
14 FORMATION.—The information described in para-
15 graph (1) shall be provided to the National Crime
16 Information Center, and the Center shall enter the
17 information into the Immigration Violators File of
18 the National Crime Information Center database, re-
19 gardless of whether—

20 (A) the alien received notice of a final
21 order of removal;

22 (B) the alien has already been removed; or

23 (C) sufficient identifying information is
24 available for the alien, such as a physical de-
25 scription of the alien.

1 (b) INCLUSION OF INFORMATION IN THE NCIC
2 DATABASE.—Section 534(a) of title 28, United States
3 Code, is amended—

4 (1) in paragraph (3), by striking “and” at the
5 end;

6 (2) by redesignating paragraph (4) as para-
7 graph (5); and

8 (3) by inserting after paragraph (3) the fol-
9 lowing:

10 “(4) acquire, collect, classify, and preserve
11 records of violations of the immigration laws of the
12 United States, regardless of whether the alien has
13 received notice of the violation, sufficient identifying
14 information is available for the alien, or the alien
15 has already been removed; and.”.

16 (c) PERMISSION TO DEPART VOLUNTARILY.—Sec-
17 tion 240B of the Immigration and Nationality Act (8
18 U.S.C. 1229c) is amended—

19 (1) by striking “Attorney General” each place
20 that term appears and inserting “Secretary of
21 Homeland Security”; and

22 (2) in subsection (a)(2)(A), by striking “120”
23 and inserting “30”.

1 **SEC. 5. FEDERAL CUSTODY OF ILLEGAL ALIENS APPRE-**
2 **HENDED BY STATE OR LOCAL LAW ENFORCE-**
3 **MENT.**

4 (a) IN GENERAL.—Title II of the Immigration and
5 Nationality Act (8 U.S.C. 1151 et seq.) is amended by
6 inserting after section 240C the following:

7 **“SEC. 240D. TRANSFER OF ILLEGAL ALIENS FROM STATE**
8 **TO FEDERAL CUSTODY.**

9 “(a) IN GENERAL.—If the head of a law enforcement
10 entity of a State (or, if appropriate, a political subdivision
11 of the State) exercising authority with respect to the ap-
12 prehension or arrest of an illegal alien, submits a request
13 to the Secretary of Homeland Security that the alien be
14 taken into Federal custody, the Secretary shall—

15 “(1)(A) not later than 72 hours after the con-
16 clusion of the State charging process or dismissal
17 process, or if no State charging or dismissal process
18 is required, not later than 72 hours after the illegal
19 alien is apprehended, take the illegal alien into the
20 custody of the Federal Government and incarcerate
21 the alien; or

22 “(B) request that the relevant State or local
23 law enforcement agency temporarily detain or trans-
24 port the illegal alien to a location for transfer to
25 Federal custody; and

1 “(2) designate at least 1 Federal, State, or
 2 local prison or jail or a private contracted prison or
 3 detention facility within each State as the central fa-
 4 cility for law enforcement entities of that State to
 5 transfer custody of criminal or illegal aliens to the
 6 Department of Homeland Security.

7 “(b) REIMBURSEMENT.—

8 “(1) IN GENERAL.—The Secretary of Homeland
 9 Security shall reimburse a State or a political sub-
 10 division of a State for all reasonable expenses, as de-
 11 termined by the Secretary, incurred by the State or
 12 political subdivision in the detention and transpor-
 13 tation of a criminal or illegal alien under subsection
 14 (a)(1).

15 “(2) COST COMPUTATION.—The amount reim-
 16 bursed for costs incurred under subsection (a)(1)
 17 shall be equal to the sum of—

18 “(A) the product of—

19 “(i) the average cost of incarceration
 20 of a prisoner in the relevant State, as de-
 21 termined by the chief executive officer of a
 22 State (or, as appropriate, a political sub-
 23 division of the State); and

1 “(ii) the number of days that the alien
2 was in the custody of the State or political
3 subdivision; and

4 “(B) the cost of transporting the criminal
5 or illegal alien from the point of apprehension
6 or arrest to—

7 “(i) the location of detention; and

8 “(ii) if the location of detention and of
9 custody transfer are different, to the cus-
10 tody transfer point.

11 “(c) REQUIREMENT FOR APPROPRIATE SECURITY.—
12 The Secretary of Homeland Security shall ensure that ille-
13 gal aliens incarcerated in Federal facilities under this sub-
14 section are held in facilities which provide an appropriate
15 level of security.

16 “(d) REQUIREMENT FOR SCHEDULE.—

17 “(1) IN GENERAL.—In carrying out this sec-
18 tion, the Secretary of Homeland Security shall es-
19 tablish a regular circuit and schedule for the prompt
20 transfer of apprehended illegal aliens from the cus-
21 tody of States and political subdivisions of States to
22 Federal custody.

23 “(2) AUTHORITY FOR CONTRACTS.—The Sec-
24 retary of Homeland Security may enter into con-
25 tracts with appropriate State and local law enforce-

1 ment and detention officials to implement this sub-
 2 section.

3 “(e) ILLEGAL ALIEN DEFINED.—In this section, the
 4 term ‘illegal alien’ means an alien who—

5 “(1) entered the United States without inspec-
 6 tion or at any time or place other than that des-
 7 ignated by the Secretary of Homeland Security;

8 “(2) was admitted as a nonimmigrant and, at
 9 the time the alien was taken into custody by the
 10 State or political subdivision, had failed to—

11 “(A) maintain the nonimmigrant status in
 12 which the alien was admitted or to which it was
 13 changed under section 248; or

14 “(B) comply with the conditions of the sta-
 15 tus described in subparagraph (A);

16 “(3) was admitted as an immigrant and subse-
 17 quently failed to comply with the requirements of
 18 that status; or

19 “(4) failed to depart the United States as re-
 20 quired under a voluntary departure agreement or
 21 under a final order of removal.”.

22 (b) AUTHORIZATION OF APPROPRIATIONS FOR THE
 23 DETENTION AND TRANSPORTATION TO FEDERAL CUS-
 24 TODY OF ALIENS NOT LAWFULLY PRESENT.—There is
 25 authorized to be appropriated \$500,000,000 for the deten-

1 tion and removal of aliens not lawfully present in the
2 United States under the Immigration and Nationality Act
3 (8 U.S.C. 1101 et seq.) for fiscal year 2009 and for each
4 subsequent fiscal year.

5 **SEC. 6. IMMIGRATION LAW ENFORCEMENT TRAINING OF**
6 **STATE AND LOCAL LAW ENFORCEMENT PER-**
7 **SONNEL.**

8 (a) TRAINING MANUAL AND POCKET GUIDE.—

9 (1) PUBLICATION.—Not later than 180 days
10 after the date of the enactment of this Act, the Sec-
11 retary of Homeland Security shall publish—

12 (A) a training manual for State and local
13 law enforcement personnel to train such per-
14 sonnel in the investigation, identification, ap-
15 prehension, arrest, detention, and transfer to
16 Federal custody of aliens in the United States,
17 including—

18 (i) the transportation of such aliens
19 across State lines to detention centers; and

20 (ii) the identification of fraudulent
21 documents; and

22 (B) an immigration enforcement pocket
23 guide for State and local law enforcement per-
24 sonnel to provide a quick reference for such
25 personnel in the course of duty.

1 (2) AVAILABILITY.—The training manual and
 2 pocket guide published under paragraph (1) shall be
 3 made available to all State and local law enforce-
 4 ment personnel.

5 (3) APPLICABILITY.—Nothing in this sub-
 6 section may be construed to require State or local
 7 law enforcement personnel to keep the training man-
 8 ual or pocket guide with them while on duty.

9 (4) COSTS.—The Secretary shall be responsible
 10 for all costs incurred in the publication of the train-
 11 ing manual and pocket guide under this subsection.

12 (b) TRAINING FLEXIBILITY.—

13 (1) IN GENERAL.—The Secretary of Homeland
 14 Security shall make available training of State and
 15 local law enforcement officers through as many
 16 means as possible, including—

17 (A) residential training at—

18 (i) the Federal Law Enforcement
 19 Training Center of the Department of
 20 Homeland Security in Glynco, Georgia;
 21 and

22 (ii) the Center for Domestic Prepared-
 23 ness of the Department of Homeland Secu-
 24 rity;

1 (B) onsite training held at State or local
2 police agencies or facilities;

3 (C) online training courses by computer,
4 teleconferencing, and videotape; and

5 (D) recording training courses on DVD.

6 (2) ONLINE TRAINING.—The head of the Dis-
7 tributed Learning Program of the Federal Law En-
8 forcement Training Center shall make training avail-
9 able for State and local law enforcement personnel
10 via the Internet through a secure, encrypted distrib-
11 uted learning system that—

12 (A) has all its servers based in the United
13 States;

14 (B) is sealable and survivable; and

15 (C) is capable of having a portal in place
16 not later than 30 days after the date of the en-
17 actment of this Act.

18 (3) FEDERAL PERSONNEL TRAINING.—The
19 training of State and local law enforcement per-
20 sonnel under this section may not displace the train-
21 ing of Federal personnel.

22 (c) CLARIFICATION.—Nothing in this Act or in any
23 other provision of law may be construed as making any
24 immigration-related training a requirement for, or a pre-
25 requisite to, any State or local law enforcement officer ex-

1 exercising the inherent authority of the officer to investigate,
 2 identify, apprehend, arrest, detain, or transfer to Federal
 3 custody illegal aliens during the normal course of carrying
 4 out the law enforcement duties of the officer.

5 (d) TRAINING LIMITATION.—Section 287(g) of the
 6 Immigration and Nationality Act (8 U.S.C. 1357(g)) is
 7 amended—

8 (1) by striking “Attorney General” each place
 9 that term appears and inserting “Secretary of
 10 Homeland Security”; and

11 (2) in paragraph (2), by adding at the end the
 12 following: “Such training may not exceed 14 days or
 13 80 hours, whichever is longer.”.

14 **SEC. 7. IMMUNITY.**

15 (a) PERSONAL IMMUNITY.—

16 (1) IN GENERAL.—Notwithstanding any other
 17 provision of law, a law enforcement officer of a State
 18 or of a political subdivision of a State, shall be im-
 19 mune from personal liability arising out of the en-
 20 forcement of any immigration law to the same extent
 21 as a Federal law enforcement officer.

22 (2) APPLICABILITY.—The immunity provided
 23 under paragraph (1) only applies to an officer of a
 24 State, or of a political subdivision of a State, who

1 is acting within the scope of the officer's official du-
2 ties.

3 (b) AGENCY IMMUNITY.—Notwithstanding any other
4 provision of law, a law enforcement agency of a State, or
5 of a political subdivision of a State, shall be immune from
6 any claim for money damages based on Federal, State,
7 or local civil rights law for an incident arising out of the
8 enforcement of any immigration law, except to the extent
9 that the law enforcement officer of that agency, whose ac-
10 tion the claim involves, committed a violation of Federal,
11 State, or local criminal law in the course of enforcing such
12 immigration law.

13 **SEC. 8. CRIMINAL ALIEN PROGRAM.**

14 (a) CONTINUATION.—

15 (1) IN GENERAL.—The Secretary of Homeland
16 Security shall continue to operate the program com-
17 monly known as the Criminal Alien Program by—

18 (A) identifying all removable criminal
19 aliens in Federal and State correctional facili-
20 ties;

21 (B) ensuring that aliens identified under
22 subparagraph (A) are not released into the
23 United States; and

1 (C) removing aliens identified under sub-
2 paragraph (A) from the United States after the
3 completion of their sentences.

4 (2) EXPANSION.—Not later than 9 months
5 after the date of the enactment of this Act, the Sec-
6 retary of Homeland Security shall expand the Crimi-
7 nal Alien Program to all States.

8 (3) STATE RESPONSIBILITIES.—Appropriate of-
9 ficials of each State that receives Federal funds for
10 the incarceration of criminal aliens shall—

11 (A) cooperate with the Federal officials
12 who carry out the Criminal Alien Program;

13 (B) expeditiously and systematically iden-
14 tify criminal aliens in the State’s prison and jail
15 populations; and

16 (C) promptly convey information regarding
17 such aliens to the Federal officials who carry
18 out the Criminal Alien Program as a condition
19 for receiving such Federal funds.

20 (b) AUTHORIZATION FOR DETENTION AFTER COM-
21 PLETION OF STATE OR LOCAL PRISON SENTENCE.—State
22 and local law enforcement officers are authorized to—

23 (1) hold an illegal alien for a period not to ex-
24 ceed 14 days after the alien has completed the
25 alien’s State prison sentence in order to effectuate

1 the transfer of the alien to Federal custody when the
2 alien is removable or not lawfully present in the
3 United States; and

4 (2) issue a detainer that would allow aliens who
5 have served a State prison sentence to be detained
6 by the State prison until personnel from United
7 States Immigration and Customs Enforcement take
8 the alien into custody.

9 (c) TECHNOLOGY USAGE.—

10 (1) IN GENERAL.—The Secretary of Homeland
11 Security shall use available technology, including
12 videoconferencing, to the maximum extent possible,
13 in order to make the Criminal Alien Program avail-
14 able in remote locations.

15 (2) MOBILE ACCESS.—Mobile access to Federal
16 databases of aliens, such as the IDENT database
17 maintained by the Secretary of Homeland Security,
18 and live scan technology shall be used to the max-
19 imum extent practicable in order to make these re-
20 sources available to State and local law enforcement
21 agencies in remote locations.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to carry out the Crimi-
24 nal Alien Program—

25 (1) \$40,000,000 for fiscal year 2009;

- 1 (2) \$50,000,000 for fiscal year 2010;
- 2 (3) \$60,000,000 for fiscal year 2011;
- 3 (4) \$70,000,000 for fiscal year 2012; and
- 4 (5) \$80,000,000 for fiscal year 2013 and each
- 5 succeeding fiscal year.

6 **SEC. 9. CONSTRUCTION.**

7 Nothing in this Act may be construed to require State
8 or local law enforcement personnel to—

- 9 (1) report the identity of a victim of, or a wit-
10 ness to, a criminal offense to the Secretary of Home-
11 land Security for immigration enforcement purposes;
- 12 (2) arrest such victim or witness for a violation
13 of the immigration laws of the United States; or
- 14 (3) enforce the immigration laws of the United
15 States.

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